THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.4938 OF 2006

Dated: 14-03-2006

Between

R.V. Appala Naidu,

S/o. Late Sanyasi Naidu,

R/o. Pedamedapalli,

Mentada Mandal,

Vizianagaram District.

...PETITIONER

AND

The Executive Engineer,

Panchayat Raj, Vizianagaram,

Vizianagaram District and

others.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the proceedings No.Rc.No.222/06/F1 dated 20.02.2006 issued by the first respondent as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner entered into an agreement vide agreement No.16/98-1999 dated 12.03.1999 for execution of work relating to B.T. to the road National Highway-43 to Gadasam special Rural Road Maintenance and the said work has been completed on 06.03.2001 and the final bill was also paid after completion of the work. He further submits that the liability for maintaining the standard of the work is only for a period of two years of its completion but the Advisor Quality Control, who inspected the said road, pointed out certain defects after five years. He further submits that the impugned order in Roc.No.222/06/F1 dated 20.02.2006 has been issued by the first respondent demanding the petitioner to pay an amount of Rs.3,62,789/- on the ground that the Quality Control Officer after inspection proposed recoveries on the said work "B.T. to the road from Gadasam" estimated to Rs.20.00 Lakhs sanctioned under NRR Grant.

Admittedly the said order has been passed without giving any reasonable opportunity and without giving any prior notice to the petitioner. Therefore, I am of the opinion that the impugned order is illegal and arbitrary and accordingly it is set aside granting liberty to the first respondent to issue a show cause notice giving reasonable opportunity to the petitioner and to take appropriate action in accordance with law.

The writ petition is accordingly allowed.

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V. ESWARAIAH, J

March 14, 2006

DSK